
OLR Bill Analysis

sHB 5051

AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS.

SUMMARY:

This bill requires every for-profit chronic and convalescent nursing home that receives state funding to include with its cost report to the Department of Social Services (DSS) the most recent finalized annual profit and loss statement from any related party that receives \$10,000 or more for providing goods, “fees,” and services to the nursing home. (Presumably, this means any money the related party receives in fees, not “for” them.) By law, DSS pays nursing homes per diem rates for caring for their Medicaid-eligible residents. Rates are set prospectively based on cost reports the homes submit annually.

The bill also prohibits anyone from bringing legal action against DSS or other state employees for not taking action as a result of information obtained by the agency in cost reports.

The bill defines “related party” to include companies related to the nursing home (1) through a family association (i.e., a relationship by birth, marriage, or domestic partnership) or (2) through common ownership, control, or business association with any of the owners, operators, or officials of the nursing home.

EFFECTIVE DATE: July 1, 2014

BACKGROUND

Chronic and Convalescent Nursing Homes

Chronic and convalescent nursing homes are nursing home facilities licensed by the Department of Public Health to provide skilled nursing care under medical supervision and direction to carry out nonsurgical treatment and dietary procedures for chronic diseases, convalescent

stages, acute diseases, or injuries.

Nursing Home Cost Reports

State law requires nursing homes to submit cost reports to DSS by each December 31. These reports include an accounting by the homes of any related-party transactions that occur during the reporting period. The report form includes space for the home to indicate, for each related party and regardless of the amount of the transaction:

1. the related individual or company name and address;
2. whether the entity also provides goods and services to non-related parties and the percentage of revenue the entity receives from the non-related parties;
3. a description of the goods and services provided;
4. where (page and line number) on the cost report these costs are shown;
5. the cost reported; and
6. the actual cost to the related party.

Federal Requirements

Federal law requires nursing homes that receive Medicaid funding to disclose to the state Medicaid agency information on related parties, including information on:

1. anyone with direct or indirect ownership in the home of 5% or more;
2. officers, director, and partners;
3. managing employees; and
4. anyone who is an “additional disclosable party” (defined as any person or entity who (a) exercises operational, financial, or managerial control over the facility or a part thereof, provides policies or procedures for any of the operations, or provides

financial or case management services to the facility; (b) leases or subleases real property to the facility, or owns a whole or part interest of 5% of more of the total property value of the facility; or (c) provides management or administrative services, management or clinical consulting services, or accounting or financial services to the facility (42 USC § 1320a-3).

Federal regulations permit nursing homes to include as allowable costs those they incurred from procuring services, facilities, and supplies furnished by an entity related by common ownership or control. The maximum allowed is the actual cost to the related party. But the regulations allow homes to include the actual charge for goods and services if the home can demonstrate by convincing evidence that:

1. the supplying organization is a bona fide separate organization;
2. a substantial part of its business activity of the type it is carrying on with the home is also transacted with others and that there is an open, competitive market for the type of services, facilities, or supplies the entity provides;
3. the services, facilities, or supplies that institutions commonly obtain from other entities are not a basic element of patient care that the home ordinarily would furnish directly to its residents; and
4. the charge to the home is in line with the charge in the open market and no more than the entity would charge any others for the same goods and services (42 CFR § 413.17).

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 12 Nay 6 (03/18/2014)